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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,262	10/04/2006	Christian Wengerter	L7725.06108	2098

52989 7590 06/08/2010

Dickinson Wright PLLC
James E. Ledbetter, Esq.
International Square
1875 Eye Street, N.W., Suite 1200
Washington, DC 20006

EXAMINER	
SAFAIPOUR, BOBBAK	

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
06/08/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/578,262	WENGERTER ET AL.	
	Examiner	Art Unit	
	BOBBAK SAFAIPOUR	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 March 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *45,49-51,55-69,73,74 and 80-85* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *45,49-51,55,58-67,69,73,74 and 81-85* is/are rejected.

7)☒ Claim(s) *56, 57, 68, 77, 80* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This Action is in response to Applicant's response filed on 03/08/2010.

Claims 1-44, 46-48, 52-54, 70-72, 75-76, and 78-79 have been cancelled.

Claims 45, 49-51, 55-69, 73-74, and 80-85 are still pending in the present application.

This action is made FINAL.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection **in view of Jang (US 5,579,373).**

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 45, 50-51, 69 and 73-74 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 45 and 73-74 of copending Application No. 10/577,710. Although the conflicting claims are not identical, they are not

patentably distinct from each other because claims 45, 50-51, 69 and 73-74 of the present application are a broader version of claims 45 and 73-74 of copending Application No. 10/577,710.

Claim 45 of the present application is taught by claim 45 of copending Application No. 10/577,710.

Claim 49 of the present application is taught by claims 54-55 of copending Application No. 10/577,710.

Claim 50 of the present application is taught by claim 73 of copending Application No. 10/577,710.

Claim 51 of the present application is taught by claim 73 of copending Application No. 10/577,710.

Claims 56-57 and 68 of the present application is taught by claims 56-57, 68 and 78 of copending Application No. 10/577,710.

Claim 58 of the present application is taught by claim 50 of copending Application No. 10/577,710.

Claim 59 of the present application is taught by claims 46, 59, and 70 of copending Application No. 10/577,710.

Claims 60-64 and 66 of the present application is taught by claims 60-64 of copending Application No. 10/577,710.

Claims 65 and 67 of the present application is taught by claims 65-66 of copending Application No. 10/577,710.

Claim 69 of the present application is taught by claim 45 of copending Application No. 10/577,710.

Claim73 of the present application is taught by claim 74 of copending Application No. 10/577,710.

Claim 74 of the present application is taught by claim 73 of copending Application No. 10/577,710.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 45, 49-51, 55, 58-67, 69, 73-74, 77, and 81-85 are rejected under 35 U.S.C. 102(b) as being anticipated by **Jang (US 5,579,373)**.

Consider **claim 45**, Jang discloses a method for balancing the distribution of interference between radio cells in a wireless communication system, the wireless communication system comprising a plurality of radio cells in which a plurality of subcarrier blocks are used for communication (see fig. 2), wherein a number of adjacent radio cells build a cell cluster, wherein the radio cells of the cell cluster each comprise corresponding subcarrier block sets having the

same subcarrier blocks, and wherein each subcarrier block comprises a plurality of subcarriers (see col. 2, lines 55-67), the method comprising:

grouping said subcarrier blocks into a plurality of subcarrier block sets in each radio cell of the cell cluster (see fig. 2, 12B and col. 6, lines 13-20 and col. 7, lines 1-45; the location groups are formed by dividing into a plurality of groups the traffic channels around a base station within one cell site; Z1-Z8 and ch1 to ch40),

determining a plurality of transmission power ranges for each of the radio cells of said cell cluster, wherein a respective transmission power range defines a range of transmission power levels used for transmission power control within a respective radio cell of the cell cluster (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-20; a signal level received from the base station and measured in the mobile station is compared with a level range received and determined in the base station),

assigning the plurality of transmission power ranges to the subcarrier block sets of radio cells of the cell cluster (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30; the transmission output of each location group is set by the table 1), such that:

in each radio cell of the cell cluster, each of said plurality of transmission power ranges is mapped to one of the subcarrier block sets of a respective radio cell (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30), and

each of said plurality of transmission power ranges is mapped to one of said corresponding subcarrier block sets among the radio cells of said cell cluster (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30).

Consider **claim 50**, Jang discloses a method for balancing the distribution of interference between radio cells in a wireless communication system, the wireless communication system comprising a plurality of radio cells in which a plurality of subcarrier blocks are used for communication (see fig. 2, wherein N adjacent radio cells build a cell cluster, wherein the N radio cells of the cell cluster each comprise corresponding subcarrier block sets having the same subcarrier blocks, and wherein each subcarrier block comprises a plurality of subcarriers, N being an integer number of 2 or more (see col. 2, lines 55-67), the method comprising:

grouping said subcarrier blocks into N subcarrier block sets in each radio cell of the cell cluster (see fig. 2, 12B and col. 6, lines 13-20 and col. 7, lines 1-45; the location groups are formed by dividing into a plurality of groups the traffic channels around a base station within one cell site; Z1-Z8 and ch1 to ch40),

determining N transmission power ranges for each of the radio cells of said cell cluster, wherein a respective transmission power range defines a range of transmission power levels used for transmission power control within a respective radio cell of the cell cluster (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-20; a signal level received from the base station and measured in the mobile station is compared with a level range received and determined in the base station),

assigning N transmission power ranges to the N subcarrier block sets of radio cells of the cell cluster (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30; the transmission output of each location group is set by the table 1), such that

in each of the N radio cells of the cell cluster, each of said N transmission power ranges is mapped to one of the N subcarrier block sets of a respective radio cell (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30), and

each of said N transmission power ranges is mapped to one of said corresponding subcarrier block sets among the N radio cells of said cell cluster (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30).

Consider **claim 51**, Jang discloses a method for balancing the distribution of interference between radio cells in a wireless communication system, the wireless communication system comprising a plurality of radio cells each of them comprising at least two sectors in each of which a plurality of subcarrier blocks are used for communication, wherein a sector of a radio cell and its adjacent sectors in neighboring radio cells build a sector cluster, wherein the sector cluster comprises corresponding subcarrier block sets having the same subcarrier blocks, and wherein each subcarrier block comprises a plurality of subcarriers (see col. 2, lines 55-67), the method comprising:

grouping said subcarrier blocks into a plurality of subcarrier block sets in each of the sectors of the sector cluster (see fig. 2, 12B and col. 6, lines 13-20 and col. 7, lines 1-45; the location groups are formed by dividing into a plurality of groups the traffic channels around a base station within one cell site; Z1-Z8 and ch1 to ch40),

determining a plurality of transmission power ranges for each sector of the sector cluster, wherein a respective transmission power range defines a range of transmission power levels used for transmission power control within a respective sector of the sector cluster (see col. 2, lines

55-65; col. 6, lines 20-57 and col. 7, lines 1-20; a signal level received from the base station and measured in the mobile station is compared with a level range received and determined in the base station),

assigning the plurality of transmission power ranges to the plurality of subcarrier block sets of a sector of a radio cell and its adjacent sectors of said other radio cells, wherein said plurality of transmission power ranges is assigned to the subcarrier block sets of the sector cluster (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30; the transmission output of each location group is set by the table 1), such that

in each sector of a sector cluster, each of said plurality of transmission power ranges is mapped to one of said subcarrier block sets of a respective sector (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30), and

each of said plurality of transmission power ranges is mapped to one of said corresponding subcarrier block sets in the sector cluster (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30).

Consider **claim 69**, Jang discloses a base station for use in a wireless communication system., the wireless communication system comprising a plurality of radio cells in which a plurality of subcarrier blocks are used for communication, wherein a number of adjacent radio cells build a cell cluster, wherein the radio cells of the cell cluster each comprise corresponding subcarrier block sets having the same subcarrier blocks, and wherein each subcarrier block comprises a plurality of subcarriers, the base station controlling one of the radio cells of the cell cluster (see col. 2, lines 55-67) and comprising:

a processing unit operable to group said subcarrier blocks into a plurality of subcarrier block sets in the radio cell of the cell cluster controlled by the base station (see fig. 2, 12B and col. 6, lines 13-20 and col. 7, lines 1-45; the location groups are formed by dividing into a plurality of groups the traffic channels around a base station within one cell site; Z1-Z8 and ch1 to ch40),

a determination unit operable to determine a plurality of transmission power ranges for the radio cell of the cell cluster controlled by the base station (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-20; a signal level received from the base station and measured in the mobile station is compared with a level range received and determined in the base station),

a power control unit operable to perform power control within a range of transmission power levels defined by a respective one of said plurality of transmission power ranges (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-20),

an assigning unit operable to assign the plurality transmission power ranges to the subcarrier block sets of the radio cells of the cell cluster controlled by the base station (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30; the transmission output of each location group is set by the table 1), such that

in each radio cell of the cell cluster, each of said plurality of transmission power ranges is mapped to one of the subcarrier block sets of a respective radio cell (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30), and

each of said plurality of transmission power ranges is mapped to one of said corresponding subcarrier block sets among the radio cells of said cell cluster (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30).

Consider **claim 73**, Jang discloses a base station in a wireless communication system, the wireless communication system comprising a plurality of radio cells in which a plurality of subcarrier blocks are used for communication, wherein N adjacent radio cells build a ceil cluster, wherein the N radio cells of the cell cluster each comprise corresponding subcarrier block sets having the same subcarrier blocks, and wherein each subcarrier block comprises a plurality of subcarriers, N being an integer number of 2 or more, the base station controlling one of the radio cells of the cluster (see col. 2, lines 55-67) and comprising:

a processing unit operable to group said subcarrier blocks into N subcarrier block sets in the radio cell controlled by the base station (see fig. 2, 12B and col. 6, lines 13-20 and col. 7, lines 1-45; the location groups are formed by dividing into a plurality of groups the traffic channels around a base station within one cell site; Z1-Z8 and ch1 to ch40),

a determination unit operable to determine N transmission power ranges for the radio cell of the ceil cluster controlled by the base station (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-20; a signal level received from the base station and measured in the mobile station is compared with a level range received and determined in the base station),

a power control unit operable to perform power control within a range of transmission power levels defined by a respective one of said plurality of transmission power ranges (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-20),

an assigning unit operable to assign N transmission power ranges to the N subcarrier block sets of the radio cells of the cell cluster controlled by the base station (see col. 2, lines 55-

65; col. 6, lines 20-57 and col. 7, lines 1-30; the transmission output of each location group is set by the table 1), such that

in each of the N radio cells of the cell cluster, each of said N transmission power ranges is mapped to one of the N subcarrier block sets of a respective radio cell (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30), and

each of said N transmission power ranges is mapped to one of said corresponding subcarrier block sets among the N radio cells of said cell cluster (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30).

Consider **claim 74**, Jang discloses a base station for use in a wireless communication system, the wireless communication system comprising a plurality of radio cells each of them comprising at least two sectors in each of which a plurality of subcarrier blocks are used for communication, wherein a sector of a radio cell and its adjacent sectors in neighboring radio cells build a sector cluster, wherein the sector cluster comprises corresponding subcarrier block sets having the same subcarrier blocks, and wherein each subcarrier block comprises a plurality of subcarriers, the base station controlling a radio cell having a sector of the sector cluster (see col. 2, lines 55-67) and comprising:

a processing unit operable to group said subcarrier blocks into a plurality of subcarrier block sets in the sector of the sector cluster controlled by the base station (see fig. 2, 12B and col. 6, lines 13-20 and col. 7, lines 1-45; the location groups are formed by dividing into a plurality of groups the traffic channels around a base station within one cell site; Z1-Z8 and ch1 to ch40),

a determination unit operable to determine a plurality of transmission power ranges for the sector of the sector cluster controlled by the base station (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-20; a signal level received from the base station and measured in the mobile station is compared with a level range received and determined in the base station),

a power control unit operable to perform power control within a range of transmission power levels defined by a respective one of said plurality of transmission power ranges (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-20),

an assigning unit operable to assign the transmission power ranges to the subcarrier block sets of the sector of the sector cluster controlled by the base station (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30; the transmission output of each location group is set by the table 1) such that

in each sector of a sector cluster, each of said plurality of transmission power ranges is mapped to one of said corresponding subcarrier block sets in the sector cluster (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30)

each of said plurality of transmission power ranges is mapped to one of said corresponding subcarrier block sets in the sector cluster (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30).

Consider **claim 85**, Jang discloses a communication terminal in a wireless communication system, the wireless communication system, comprising a plurality of radio cells in which a plurality of subcarrier blocks are used for communication, wherein, a number of adjacent radio cells build a cell cluster, wherein the radio cells of the cell cluster each comprises

corresponding subcarrier block sets having the same subcarrier blocks, and wherein each subcarrier block comprises a plurality of subcarriers; wherein the communication terminal is communicating in one of the radio cells of the cell cluster (see col. 2, lines 55-67) and comprising:

a power control unit that performs power control of the data transmitted to a base station controlling the radio cell by the communication terminal, wherein the power control unit performs power control within a given one of plural transmission power control ranges, wherein each transmission power control range is associated to one of the subcarrier block sets in the radio cell (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-20; a signal level received from the base station and measured in the mobile station is compared with a level range received and determined in the base station),

a receiving unit that receives an allocation of a subcarrier block assignment or a subcarrier block set (see fig. 2, 12B and col. 6, lines 13-20 and col. 7, lines 1-45; the location groups are formed by dividing into a plurality of groups the traffic channels around a base station within one cell site; Z1-Z8 and ch1 to ch40), and

a selection unit that transmits data to the base station on the assigned subcarrier block or assigned subcarrier block set (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30; the transmission output of each location group is set by the table 1), wherein

the transmit power control unit performs power control, of the transmitted data within the transmit power control range associated to the subcarrier block set to which the assigned subcarrier block belongs, respectively associated to the assigned subcarrier block set (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-20; a signal level received from the base station

and measured in the mobile station is compared with a level range received and determined in the base station).

Consider **claims 49 and 55**, and **as applied to claims 45 and 51 above, respectively,** Jang discloses the claimed invention wherein the mapping is a unique or one-to-one mapping. (see col. 2, lines 55-65; col. 6, lines 20-57 and col. 7, lines 1-30)

Consider claims 58 and 81, and as applied to claims 45 and 51 above, respectively, Jang discloses the claimed invention wherein the transmission power ranges in different radio cells of the cell cluster vary. (see col. 7, lines 20-30, table 1)

Consider **claims 59 and 84**, and **as applied to claims 45 and 51 above, respectively,** Jang discloses the claimed invention wherein the subcarrier block set size of corresponding subcarrier block sets is equal (see fig. 12B).

Consider **claims 60 and 82**, and **as applied to claims 45 and 51 above, respectively,** Jang discloses the claimed invention wherein reconfiguring the subcarrier block sets in a radio cell of the cell cluster (see col. 8, lines 36-53)

Consider **claims 61 and 83**, and **as applied to claims 45 and 51 above, respectively,** Jang discloses the claimed invention wherein reconfiguring the transmission power ranges in a radio cell of the cell cluster (see col. 8, lines 36-53)

Consider **claim 62**, and **as applied to claim 61 above,** Jang discloses the claimed invention wherein the reconfiguration of the subcarrier block sets in the radio cell of the cell cluster is performed in accordance with the other adjacent radio cells of the cell cluster (see col. 8, lines 36-53)

Consider **claim 63**, and **as applied to claim 60 above,** Jang discloses the claimed invention wherein the reconfiguration of the power ranges and/or the subcarrier block sets in the sector is performed in accordance with the other sectors of its sector cluster. (see col. 8, lines 36-53)

Consider **claim 64**, and **as applied to claim 60 above,** Jang discloses the claimed invention wherein the reconfiguration is based on channel quality measurements. (see col. 8, lines 36-53)

Consider **claim 65**, and **as applied to claim 45 above,** Jang discloses the claimed invention wherein signaling information related to a reconfiguration of the subcarrier block sets in a radio cell from the radio cell to at least one adjacent radio cell within the cell cluster (see col. 2, lines 54-67 and col. 8, lines 36-53).

Consider **claim 66**, and **as applied to claim 61 above,** Jang discloses the claimed invention wherein reconfiguring the transmission power ranges in a radio cell of the cell cluster. (see col. 8, lines 36-53)

Consider **claim 67**, and **as applied to claim 65 above,** Jang discloses the claimed invention wherein signaling the information to a control unit in the communication system (see col. 2, lines 54-67 and col. 8, lines 36-53).

Allowable Subject Matter

Claims 56-57, 68, 77 and 80 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Consider **claim 56,** the best prior art of record found during the examination of the present application, **Jang (US 5,579,373),** fails to specifically disclose, teach, or suggest measuring the path loss of a communication signal of a communication terminal and the path loss of interference from adjacent radio cells of the cell cluster for said communication signal, and assigning the communication terminal to a subcarrier block of a subcarrier block set in a radio cell of the cell cluster other than the adjacent radio cells based, on said measurement.

Claims 57 and 68 would also be allowable because it is dependent upon claim 56.

Consider **claim 77,** the best prior art of record found during the examination of the present application, **Jang (US 5,579,373),** fails to specifically disclose, teach, or suggest a measuring unit operable to measure the path loss of a communication signal of a communication terminal and the path loss due to interference among the N adjacent radio cells of the cell cluster for said communication signal, and assigning the communication terminal to a subcarrier block of a subcarrier block set in a radio cell of the cell cluster other than the adjacent radio cells based, on said measurement.

Consider **claim 80,** the best prior art of record found during the examination of the present application, **Jang (US 5,579,373),** fails to specifically disclose, teach, or suggest the wireless terminal communication system comprising a plurality of radio cells in which a plurality of subcarrier blocks are used for communication wherein each subcarrier block comprises a plurality of subcarriers, the communication terminal comprising a power control unit operable to perform power control between a base station of a radio cell communicating with the communication terminal, wherein the power control unit is operable to perform power control in a transmission power control range in an interval defined by a transmission power level of 0 and a maximum transmission power level.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed to**:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bobbak Safaipour whose telephone number is (571) 270-1092. The Examiner can normally be reached on Monday-Friday from 9:00am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

/Bobbak Safaipour/
Examiner, Art Unit 2618

June 3, 2010

/Matthew D. Anderson/

Supervisory Patent Examiner, Art Unit 2618